

## **REMARKS:**

### **I. Introduction**

In the Office Action mailed on June 22, 2005, the Examiner rejected claims 1 to 12, 15, 16, and 20 to 24. The present amendment cancels no claims, amends claim 20, and adds new claims 25 to 30. Accordingly, claims 1 to 12, 15, 16, and 20 to 30 are now pending in this application.

### **II. Claim Rejections Based on 35 U.S.C. § 102(b)**

The Examiner rejected claims 1, 2, 7 to 12, and 20 to 24 under 35 U.S.C. § 102(b) as anticipated by Rethorn (US 1,131,553). The Examiner stated that "when a user is holding the locking mechanism (28) against the handle, the brace is secured against movement relative to the tines" and "when the locking mechanism is in the released position (shown in solid lines in Fig. 2), the brace is secured against movement relative to the tines."

Independent claim 1, and claims dependent therefrom, are allowable because they each include the limitation of "a locking device selectively operable to releasably secure the brace to the head in each of the first and second positions to prevent movement of the brace relative to the tines". No prior art of record reasonably discloses or suggests the present invention as currently defined by independent claim 1. Rethorn discloses a handle (28) that moves the brace (24) outwardly along the tines (16) when manipulated against the bias of a spring (26) to push off any leaves etc. that are impaled on the tines (16). See Rethorn, lines 81 to 91. When the handle (28) is released, the spring (26) resiliently returns all the components, including the brace (24), to their normal or storage position. See Rethorn, lines 92 to 95. The brace (24) cannot be secured in the outermost position along the tines (16). Thus, at most, the brace (24) of Rethorn is releasably secured to the head (15) by the device in only one position. The brace cannot be secured in any other position than the normal or storage position unless it is held in place by the user. The Examiner acknowledged such. It appears as though the Examiner is impermissibly including the user as part of the structure of the Rethorn device in order to have a device that secures brace in more than one position. The claim requires a locking device that releasably secures the brace in two positions. Thus, the brace is secured regardless of whether the user is holding the device or not. It is the claimed structure (the locking device) that secures

the brace, not the user. It is also noted that there is no need to ever secure the brace (24) of Rethorn in any other position but its normal position because the brace (24) is not utilized during raking of leaves or other debris. The brace (24) is used to clean the tines (16) of leaves after raking leaves. Reconsideration and withdrawal of the rejection is requested.

Independent claim 20 and claims dependent therefrom are allowable because they each include the limitation of "a locking device selectively operable to releasably secure the brace to the head in each of the first and second positions and at locations between the first and second positions to prevent movement of the brace relative to the tines." No prior art of record reasonably discloses or suggests the present invention as currently defined by independent claim 20. See discussion above with regard to independent claim 1. Reconsideration and withdrawal of the rejection is requested.

### **III. Claim Rejections Based on 35 U.S.C. § 103(a)**

In the final Office Action dated February 7, 2005, the Examiner rejected claims 3 to 6, 15, and 16 under 35 U.S.C. § 103(a) as unpatentable over Rethorn (US 1,131,553).

Claims 3 to 6, 15 and 16 are allowable as depending from allowable claim 1 as discussed above and independently allowable for novel and nonobvious matter contained therein. Reconsideration and withdrawal of the rejection is requested.

### **IV. New Claims**

New claims 25 to 30 have been added to further define the present invention. Claims 25 and 26 specifically point out that the locking device secures the brace in position regardless of whether the user is holding it. Claims 26 and 29 specifically point out that the rake is a leaf rake and the tines extend from the head substantially parallel to the handle. Note that the rake disclosed by Rethorn is a bow rake having rigid tines (16) extending from the head (15) substantially perpendicular to the handle (17). Claims 28 and 30 point out that the flexible tines substantially conform to various contours of the ground during use and the brace is resiliently flexible so that it substantially conforms to the various contours of the flexing tines. It is noted that the bow rake disclosed by Rethorn has a rigid strip (24) that moves along the rigid tines (16) to clean debris off the tines (16). The strip (24) must be rigid in order to provide the desired

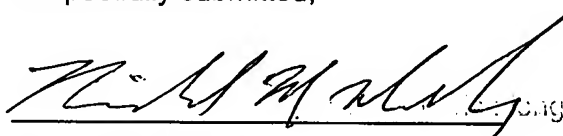
movement to clean off the tines (16) without jamming the strip (24) and/or debris along the tines (16). Allowance of the claims is requested.

## V. Conclusion

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that the present amendment does not place the application in a condition for allowance, Applicant's undersigned attorney requests that the Examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,



Richard M. Mescher  
Reg. No. 38,242

PORTER, WRIGHT, MORRIS & ARTHUR LLP  
41 South High Street  
Columbus, Ohio 43215  
(614) 227-2026  
Fax: (614) 227-2100

September 22, 2005